

**SEMI-ANNUAL PERFORMANCE REPORT  
OF  
THE NATIONAL CONSUMER LAW CENTER  
TO THE ADMINISTRATION ON AGING**

**First Half of the Grant Year  
(October 1, 2004 through March 31, 2005)**

**National Legal Resource Initiative for  
Financially Distressed Older Americans**

**Ref: Grant Number 90-AP-2640**

The following report summarizes the work of the National Consumer Law Center's Initiative for Financially Distressed Older Americans from October 1, 2004 through March 31, 2005. This report focuses on work that has been funded by the Administration on Aging grant. However, other relevant work that has been funded through other means but which has a significant impact on senior consumers is also included. A sampling of written work is enclosed.

**NATIONAL CONSUMER LAW CENTER  
SELECTED OUTCOMES**

**Case Consultations:**

From October 1, 2004 through March 1, 2005, NCLC advocates received over 1200 intake calls from a variety of advocates, attorneys, and policy makers. Approximately 13% of these calls (165 calls) were from advocates representing or assisting elder clients.

In March 2005, NCLC called a number of elder advocates that used our case consultation services. All advocates reported that consultation services were extremely helpful, including brief services and more extensive consultations. These advocates estimated that the advice and assistance they received from NCLC saved an average of eight hours of time per advocate.

**Outreach and Dissemination**

NCLC offers a wide range of consumer education materials covering the most important consumer issues affecting seniors. All of these materials are available for downloading on our web site and we encourage advocates to access the materials in this way.

From March 2004 through March 2005, there were 8516 "hits" to the NCLC brochures/consumer education main page. (This page is part of our "Seniors Initiative" section).

Below are selected hits for individual brochures and "Consumer Concerns For Older Americans" or "Consumer Facts for Older Americans" on these topics:

4880 Medical debt and seniors  
4597 Advice for mobile home owners  
3819 Advice to prevent foreclosures  
3217 Home Improvement Scams Alert  
2536 Helping Elderly Victims of Predatory Lending  
2482 Social Security Benefit Offsets  
2414 Avoiding Living Trust Scams  
1776 Identity Theft  
1679 High Cost of Home Loans (brochure)  
1624 Reverse Mortgages

## **Trainings**

Trainings and conferences are a key component of our program. The demand for NCLC's expertise to train attorneys and lay advocates is consistently high. We make a concerted effort to mail invitations to trainings to our list of senior advocates when appropriate and also publicize the events on our web site.

During the five months from October 1, 2004 through March 1, 2005, about 681 advocates attended workshops or trainings led by NCLC. (This does not include conferences where NCLC advocates spoke on panels or presented information). In addition, about 602 attorneys and other advocates attended our annual conference held in Boston in November 2004.

## **Publications**

NCLC sends our legal practice manuals and updates annually at our lowest discounted price to over 500 legal services and AoA-funded legal offices nationwide.

NCLC sends 24 issues of the NCLC Reports newsletters annually to over 1,200 legal services and AoA-funded legal offices nationwide.

**National Consumer Law Center**  
**Summary of Activities: October 1, 2004 - March 31, 2005**

**Case Consultations**

- NCLC advocates assisted a lawyer from an elder legal services program in Georgia. The lawyer was representing elder clients in two separate cases of illegal and abusive debt collection harassment. After working with NCLC, the lawyer was able to settle both cases. The attorney reported that working with NCLC saved him considerable time and effort, an estimate of 16 hours, including research in office, going to do research at the law school library, and identifying issues. The attorney reported in a follow-up with NCLC, “We are new attorneys so I would say that the assistance we received went far beyond just saving us time, it helped us look at issues and strategies that we would never have come up with on our own. The advice we received is usable in future cases, specifically as a baseline for identifying issues and considering whether or not to take cases. We couldn’t have done justice to these cases without your help.”
- NCLC advocates received a case consultation request from a legal services lawyer in New York. Her elder, illiterate client had owned a home with this wife. The client’s wife, who was able to read, was diagnosed with Alzheimer’s disease. She died a few years ago. While the wife was still alive, a goddaughter moved into their home and promised to help the husband with the paperwork for the house. He trusted her and gave her access to his financial affairs. After the wife died, the goddaughter had her name placed on the deed to the home without the husband’s knowledge. She took out numerous home equity loans, eventually stripping the remaining equity. The husband did not even realize when foreclosure procedures had begun. NCLC discussed possible options to assist the husband even though the house had recently been foreclosed. Numerous claims were likely time-barred, but we discussed the possibility of damages actions that could help the husband relocate.
- A legal aid lawyer in New Hampshire called about her 61 year old client who receives approximately \$840 in monthly SSDI payments. She had three defaulted student loans and had recently received a notice of offset from the Treasury Department. NCLC advocates discussed the various options, including a disability loan cancellation, hardship waiver, affordable repayment plans, and other possible challenges to offset.
- NCLC advocates worked with an attorney at a senior legal services program in New Mexico representing a client facing possible foreclosure of his home. The client and his wife had missed only one mortgage payment, almost two years ago. However, fees due to the missed payment had accumulated and the couple was unable to catch up. Although they had not missed any other payments, the current holder of the loan had begun foreclosure proceedings. NCLC analyzed the loan documents that the clients had signed in 2000. There were numerous potential

violations of the Truth in Lending Act, including arguments that both refinancing loans were high rate loans. The lender had refinanced the clients' low-rate loan with two high rate loans. The clients were unaware that their payments would be even higher after refinancing and that not all of their previous debts would be paid off. They were pressured into accepting the loan by an unscrupulous broker.

- A legal aid lawyer in Connecticut called about an elderly client who was contacted by telephone by a debt collector in Georgia saying that she had an unpaid credit card debt. Her only income was Social Security benefits. The woman had not heard of the debt collector before, and didn't know for sure whether she owed a credit card debt, but nevertheless agreed to make a payment. She was persuaded to provide her bank account number over the phone so one electronic withdrawal could be made. One withdrawal was made within a few days, but then another two weeks later, and then a third. In the meantime, the client's rent check bounced. She never signed any documents. NCLC discussed possible theories for getting the client's money back and possibly receiving statutory damages and injunctive relief.
- Attorneys from both Connecticut and Georgia called separately about an organization based in Illinois that aggressively advertises to seniors with debt problems. For a monthly fee, the organization claims that it will help the seniors avoid debt collection harassment. The organization has already been sued in at least one state for various violations including unfair and deceptive practices and unauthorized practice of law. NCLC discussed these and other theories with both advocates.
- NCLC energy and utilities experts provided assistance to AARP's Louisiana office regarding participation on the New Orleans Energy Efficiency Program Board of Directors.

### **Outreach and Dissemination**

Our national mailing to elder advocates in September 2004 contained, among other items, an order form for a new NCLC publication on credit card debt. The publication was completed in March 2005. We sent out free copies to everyone who had already ordered the book. We also publicized it in various elder advocacy forums, including the elder bar list serve. By April 2005, we will have sent out almost 2,000 free copies to advocates across the country. Additional copies will be available for a nominal fee. A copy of the publication is included with this report.

### **Web Site**

We continued to expand our web site during this reporting period ([www.consumerlaw.org](http://www.consumerlaw.org)). We added new information to the "Topics of Interest" section of the Seniors Initiative site. All of our brochures are now posted on-line. The consumer education brochures are posted in English and also in Spanish, Chinese, Korean, Russian

and Vietnamese. We are encouraging advocates to download the brochures and copy them as needed. Although we also continue to send brochures by mail upon request, it is more efficient and cost-effective for advocates to use the on-line versions.

### **List Serves**

Throughout this period, NCLC continued to run and participate in numerous national list serves of interest to senior advocates, including list serves on mobile home issues, predatory mortgage lending, payday loans, automobile fraud, student loans, electronic benefits transfer and fair credit reporting.

### **Networking with Other Elder Advocates**

We maintained and expanded our connections with elder advocates in a number of ways. We participated in National Association of Attorney General (NAAG) elder subcommittee calls throughout this time period. We participated on national list serves such as the ABA Elder Bar list serve and the elder abuse list serves.

### **Trainings and Conferences**

Trainings and conferences are a key component of our program. The demand for NCLC's expertise to train attorneys and lay advocates is consistently high. We make a concerted effort to mail invitations to trainings to our list of senior advocates when appropriate and also publicize the events on our web site. NCLC trainings and conferences during this reporting period included:

- Cleveland, OH, October 7-8, 2004. NCLC co-sponsored a conference on "Changing Attitudes and Reforming Policy in the Credit Marketplace." About 100 advocates attended, including numerous elder advocates.
- San Francisco, October 13, 2004. NCLC attorney Olivia Wein spoke at the National Association of Water Companies meeting on water affordability issues.
- Arlington, VA, October 20-23, 2004. NCLC staff attorneys Olivia Wein, Deanne Loonin and Margot Saunders led workshops at the annual National Aging and Law Conference. NCLC was also on the advisory planning committee for this event.
- Albuquerque, NM, October 25, 2004. With support from Freddie Mac, NCLC trained about 60 attorneys and other advocates on predatory lending issues.
- Boston, MA, November 5-8, 2004. NCLC held its annual conference in our home town. Over 600 advocates attended the main conference as well

as separate intensive sessions on counseling debtors, predatory lending, and bankruptcy. A conference brochure is enclosed with this report.

- Brockton, MA, November 19, 2004. NCLC attorney John Rao trained about 50 bankruptcy attorneys. Each attorney agreed to take a pro bono case as the “price of admission.”
- Washington, D.C., December 1-4, 2004. NCLC attorneys Tony Rodriguez and Alys Cohen gave presentations on predatory lending and civil rights law connections to consumer law at the NLADA annual conference.
- St. Louis, MO, December 8-9, 2004. NCLC attorney Deanne Loonin spoke at a conference on “The Consequences of the Consumer Lending Revolution.”
- Washington, D.C., December 9, 2004. NCLC attorney Alys Cohen and advocate Mark Benson spoke about post purchase counseling and predatory lending at the National Rural Housing conference.
- Austin, TX, December 10-11. NCLC attorneys Elizabeth Renuart and Carolyn Carter trained about 40 advocates on predatory lending issues.
- Boston, MA, January 21, 2005. NCLC attorney John Rao trained about 60 attorneys on representing low-income debtors in bankruptcy. Each attorney agreed to take a pro bono case.
- Washington, D.C., January 24-25, 2005. NCLC attorney Chi Chi Wu presented a workshop on medical debt collection at the Health Assistance Partnership conference. About 50 advocates attended the session.
- Tulsa, OK, January 26, 2005. With support from Freddie Mac, NCLC trained about 100 attorneys and other advocates on predatory lending issues.
- San Antonio, TX, February 10-11. Deanne Loonin trained over 100 attorneys on credit counseling issues at a Texas Bar conference on consumer litigation.
- Springfield, MA, February 24, 2005. NCLC attorney Charlie Harak trained about 40 advocates, social workers and counselors on basic utility rights. Similar sessions were also held in Boston on March 2, Framingham, MA on March 8, Lowell, MA on March 22, and Pittsfield, MA on March 31.

- New York, NY, February 28-March 1. NCLC Litigation Director Stuart Rossman spoke at the annual PLI consumer financial services litigation conference.
- Arlington, VA, March 13-14, 2005. NCLC co-sponsored a conference on fair debt collection issues.
- New York, NY, March 16, 2005. NCLC Litigation Director Stuart Rossman made a presentation on predatory lending for the Consumer Affairs Committee of the Association of the City of New York Bar.

In addition, during this time period, staff attorney Deanne Loonin continued to participate as an advisory committee planning member for the National Aging and Law Conference, to be held most likely in Crystal City, Virginia in spring 2006.

### **Legal Needs Surveys and Consumer Law**

Legal needs studies of low-income and elder consumers consistently confirm the importance of consumer law issues among these populations. For example, a 2004 study of the legal needs of Utah's seniors found that a significant number of seniors indicated legal difficulties in telemarketing (58%), and problems with salespersons (25%). The main problems with salespersons included pressured sales, aggressive door-to-door sales, and over-charging. A significant percentage of seniors surveyed also cited problems with contracts, credit cards, conditions in the home, utilities, predatory lending, bill collecting and bankruptcy.

### **NCLC Manuals**

During this reporting period, NCLC released a number of important updates to the consumer law manual series. Supplements to the following publications were released in December 2004:

- Repossessions and Foreclosures
- Student Loan Law
- Truth in Lending.

In addition, NCLC released the following new editions:

- Consumer Bankruptcy Law and Practice (7<sup>th</sup> ed.)
- Unfair and Deceptive Acts and Practices (6<sup>th</sup> ed.)
- Consumer Arbitration Agreements (4<sup>th</sup> ed.)
- Consumer Law Pleadings on CD-Rom and Index Guide
- Access to Utility Service (3d ed.)
- Consumer Law in a Box CD-Rom.

## **NCLC Reports**

Issues of NCLC's newsletter, *NCLC Reports* contained numerous articles of interest to senior advocates. For example, the November/December 2004 edition of the Bankruptcy and Foreclosures edition focused on protecting tax refunds and benefits from offsets. A copy of this newsletter is enclosed with this report.

## **Other Publications and Articles**

In March 2005, NCLC released a practice package and workbook, *The Surviving Credit Card Debt Workbook: For Consumers And Their Advocates*. As noted above, a free copy of the workbook was distributed to elder advocates across the country. A copy of the new book is enclosed with this report. NCLC will also be conducting trainings using this workbook to elder and other advocates nationwide.

In early 2005, NCLC also released a new edition of its publication, *NCLC Guide to Surviving Debt*. The 2005 edition includes new information about credit reports, credit counseling, and updated information about a wide range of consumer issues including foreclosure prevention and bankruptcy.

NCLC investigative reports published during this period included:

- November 2004 report on credit counseling, *Poor Compliance and Weak Enforcement Undermine Laws Governing Credit Counseling*.
- January 2005 report on Refund Anticipation Loans, *Picking Taxpayers' Pockets, Draining Tax Relief Dollars: Refund Anticipation Loans Still Slicing into Low Income Americans' Hard-Earned Tax Refunds*.
- March 2005 report on the debt settlement industry, *An Investigation of Debt Settlement Companies: An Unsettling Business for Consumers*.

## **Administrative Advocacy**

NCLC staff work closely on consumer protection issues with a number of federal and state agencies. For example, NCLC and numerous partners filed comments with the Federal Reserve Board in March 2005 regarding credit card practices.

## **Amicus Briefs and Litigation**

- *Thiedemann v. Mercedes-Benz USA, LLC*, Supreme Court of New Jersey (Jan. 2005). "Ascertainable loss" must be construed broadly and differently than

damages and “quantified loss” given the wide variety of unlawful practices covered by the N.J. consumer protection act.

- Jackson v. Metro Nissan, Inc. (Pa. S.Ct. 2004) NCLC participated in an amicus brief along with NACA and Community Legal Services in Philadelphia, arguing that the state UDAP statute should be broadly interpreted and that proof of the strict elements of common law fraud should not be required.

Among other cases as part of NCLC’s co-counseling for economic justice initiative, NCLC, the Barnes Law Group and Jacksonville Area Legal Aid filed a case in the Northern District of Georgia on behalf of a class of retired veterans. The case challenges a company’s allegedly usurious lending practices as well as practices of obtaining assignments of the veterans’ disability and retirement benefits. NCLC is also working with Public Citizen on a case challenging the use of Social Security offsets to collect old student loans. The Supreme Court recently agreed to hear the case, after the Eighth and Ninth Circuits split on this issue.



